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COMMITTEE AGAINST TORTURE

Sixth session

SUMMARY RECORD OF THE 73rd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 April 1991, at 10.30 a.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 10.40 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared the session open and welcomed Mr. Perlas, who was a new member of the Committee. Mr. Gil Lavedra was ill and had indicated that he would be absent for the first week of the session. Mr. Martenson, Under-Secretary-General for Human Rights, who was currently on mission in New York, would make a statement to the Committee on Monday, 29 April.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CAT/C/13)

2. The provisional agenda (CAT/C/13) was adopted.

SOLEMN DECLARATION BY A MEMBER OF THE COMMITTEE APPOINTED UNDER ARTICLE 17, PARAGRAPH 6, OF THE CONVENTION (agenda item 2)

3. The CHAIRMAN invited Mr. Perlas to make the necessary solemn declaration.

4. Mr. PERLAS made the following declaration: "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee against Torture honourably, faithfully, impartially and conscientiously".

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3)

5. The CHAIRMAN recalled that the Committee had decided to adopt its annual report at the end of its spring session. Consequently, the annual report which it would submit to the General Assembly at the latter's forty-sixth session would cover the Committee's activities at its fifth and sixth sessions.

6. Mr. Gil Lavedra, who was absent, was to have been country rapporteur for Panama and alternate country rapporteur for Chile. He suggested that Ms. Díaz Palacios, who had originally been alternate country rapporteur for Panama, should act as country rapporteur for Panama as well as for Chile.

7. It was so decided.

8. The CHAIRMAN called for two volunteers to serve as alternate country rapporteurs for Panama and for Chile.

9. Mr. DIPANDA MOUELLE volunteered to act as alternate country rapporteur for Chile.

10. Mr. SORENSEN volunteered to act as alternate country rapporteur for Panama.

11. Mr. Dipanda Mouelle and Mr. Sorensen were appointed alternate country rapporteurs for Chile and Panama, respectively.

12. The CHAIRMAN announced that a press conference would be held on the last day of the session or the day before that. He recalled that the files relating to articles 20 and 22 of the Convention were strictly confidential and asked members to refrain from mentioning the countries concerned during discussions on those two articles in public meetings.

13. He thanked the Secretariat for the very detailed report it had submitted on the status of the Convention and the declarations and objections which had been made (CAT/C/2/Rev.1).

14. Mr. HOUSHMAND (Representative of the Secretary-General) said that the Secretary-General had completed the final version of the draft consolidated guidelines for the initial part of the reports submitted by States parties under international human rights instruments (A/44/539, annex). He suggested that the Committee should consider the text and, if necessary, modify its own guidelines for initial reports submitted by States parties under article 19 (1) of the Convention. He further suggested that the issue should be discussed under agenda 9 (b): "Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights".

15. The CHAIRMAN endorsed that suggestion, but recalled that, from 1992, the Committee would be receiving not only initial reports but also periodic reports, for which there were no guidelines as yet. At his request, the Secretariat had prepared another draft covering periodic reports, which would be distributed in the next few days.

16. Mr. SORENSEN suggested showing the members of the Committee a film made by a Danish director about people who had survived torture.

17. The CHAIRMAN thanked Mr. Sorensen for his suggestion and promised to arrange for the film to be shown before the end of the session.

18. Ms. CHANET asked whether it would be possible to discuss the draft optional protocol to the Convention against Torture proposed by Costa Rica (E/CN.4/1991/66), which was of direct relevance to the Committee's work.

19. The CHAIRMAN endorsed that suggestion and recalled that the Costa Rican Government had proposed a draft protocol which would establish a system of visits to places of detention.

20. Mr. HOUSHMAND (Representative of the Secretary-General) recalled the General Assembly's decision on the establishment of a Preparatory Committee for the World Conference on Human Rights, which would meet for the first time in Geneva from 9 to 13 September 1991. In its decision, the General Assembly had also asked the chairmen or other designated members of the treaty bodies to take part in the Preparatory Committee's work.

21. The CHAIRMAN said that the issue was to be discussed under agenda item 9 and suggested that the Committee should designate one or two members to take part in the Preparatory Committee's work.

22. It was so decided.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (CAT/C/5, CAT/C/7, CAT/C/9 and CAT/C/12)

23. Mr. BRUNI (Secretary of the Committee) drew members' attention to the information on the submission of State party reports given in document CAT/C/13, under agenda item 4, and in documents CAT/C/5, CAT/C/7, CAT/C/9 and CAT/C/12, which listed the States parties whose initial reports had been due in 1988, 1989 and 1990, or were expected in 1991.

24. In respect of the reports due in 1988, he recalled that, of the 27 initial reports in question, 20 had been submitted. In addition, the Permanent Mission of Afghanistan in Geneva had asked the Secretariat not to transmit to the Committee its initial report, submitted in December 1990, until the Afghan Government had indicated whether it intended to change it. In accordance with rule 65 of the rules of procedure and the Committee's decisions on the non-submission of reports, four reminders had already been sent to the States parties whose initial reports, due in 1988, had not yet been received. Nevertheless, he had to report that six States parties, namely Belize, Bulgaria, Luxembourg, Togo, Uganda and Uruguay, had still not submitted their initial reports. The Permanent Mission of Bulgaria in Geneva had informed the Secretariat on 18 February 1991 that the Government was putting the finishing touches to its initial report, which would be submitted to the Secretary-General soon.

25. As for the status of submission of reports due in 1989, eight of the ten reports in question had been received. Reminders had been sent to Guyana and Peru, but there had been no reply as yet. The Secretariat had been informed on 4 April 1991 by the Permanent Mission of the Czech and Slovak Federal Republic in Geneva that the State party would shortly be submitting a new initial report, intended to replace the one submitted in April 1989. The Mission had also indicated the Czechoslovak Government's hope that the Committee would consider the report at its seventh session, in November 1991.

26. As for the 11 Member States whose initial reports had been due in 1990, seven of them had not yet submitted their reports, namely Australia, Brazil, Guinea, Italy, the Libyan Arab Jamahiriya, Poland and Portugal. A first reminder had been sent to the States parties whose reports were already more than a year overdue, such as Italy and Portugal. The United Kingdom of Great Britain and Northern Ireland had submitted its report on 22 March 1991 and had asked the Committee to consider it at its seventh session, in November 1991. The Permanent Mission of Australia had indicated on 28 March 1991 that the Government would submit its initial report soon.

27. The Committee had decided at previous sessions to call upon a number of States parties, whose initial reports it had already considered, to submit additional information and, if necessary, an additional report, pursuant to rule 67 (2) of the rules of procedure. Accordingly, it had called upon Argentina, Austria, Denmark, Egypt, Mexico, Norway and Spain to supply additional information and upon seven other States - Cameroon, Chile, China, Colombia, Ecuador, the Netherlands (in respect of Aruba) and Senegal - to submit an additional report. Reminders had been sent to those States parties.

28. Denmark had not yet transmitted to the Secretary-General the additional information which had been requested, and the additional report requested from Cameroon by 30 June 1990 and the one requested from China by 31 December 1990 had not yet reached the Secretary-General. In a communication dated 13 November 1990, the Permanent Mission of Cameroon in Geneva had indicated that the Government's submission of its additional report would be delayed; the Permanent Mission of China had cited technical reasons to explain the delay in the submission of its report. At the beginning of April 1991, Senegal had submitted its additional report, which had been distributed to the members of the Committee. For its part, the Ecuadorian Government had asked

for consideration of its additional report to be postponed to a later session, so that it could provide more extensive information about the implementation of the Convention in the country.

29. Additional information submitted by States parties in the form of legal texts, judicial decisions or statistics were kept in the Secretariat archives, where they could be consulted in the language of submission. Only those documents or additional reports which might serve as a basis for discussion by the Committee were issued and translated.

30. The CHAIRMAN noted that the procedure followed by the Secretariat to remind States parties of their obligations was the same whether the State party concerned had failed to submit its initial report or had been slow in providing additional information or reports which the Committee had requested. However, when the members of the Committee received the additional information they had requested, it would not be sufficient merely to take note of it, especially if it was a particularly detailed additional report. If the shortcomings of the initial report had been so serious that the State party had been asked to provide an additional report, it might perhaps be necessary to invite the State concerned to send a delegation to introduce the new report and answer the Committee's questions. Before deciding on the procedure to follow, it might be useful to refer to the practice followed by the other treaty bodies.

31. Mr. HOUSHMAND (Representative of the Secretary-General) said that almost all the bodies established under human rights instruments had had to deal with that problem. The Human Rights Committee had been obliged, on a number of occasions, to ask for additional reports, but it had not really adopted a fixed procedure in dealing with them. Since States parties were asked to submit a periodic report every five years to update the information contained in their initial report, the Human Rights Committee decided, in the light of the shortcomings of the initial report and the time of submission of the additional report, either to study the new report along with the next periodic report or to include the additional report on its agenda and discuss it separately.

32. The Committee on the Elimination of Racial Discrimination had never had that problem, since States parties were obliged to submit a new report to it every two years. Any additional information submitted was, accordingly, studied along with the next periodic report.

33. The Committee on Economic, Social and Cultural Rights, which had begun its work in 1987, had only very rarely had to ask for additional information, and none of the information it had requested had been submitted as yet. In other words, practice differed considerably from one body to another, and the time when the additional report or information reached the body concerned determined whether it would be considered with subsequent periodic reports or separately.

34. Ms. CHANET said that she could not remember an additional report which had been studied separately in the four years in which she had taken part in the work of the Human Rights Committee. In her opinion, the members of the Committee against Torture should decide which course to take on the basis of the reasons which had led them to ask for an additional report, when deciding

on the value of the information in it and the way it was presented. That was the only way to decide whether the State concerned should be asked to send a delegation to reply to the Committee's questions, if it felt that the additional report required explanation.

35. The CHAIRMAN said that he did not think that specific information provided in document form would need to be considered separately, but he still felt that it would be useful to ask the Secretariat to ensure that the additional information provided really did answer the questions asked by the members of the Committee. In such a case, it would be sufficient to take note of it. However, if the State party had failed to reply to certain questions, the Secretariat should send it another reminder.

36. It was, nevertheless, important that additional reports should be studied thoroughly, particularly if the initial report had serious shortcomings. The members of the Committee must, accordingly, decide whether the State party should be asked to send a delegation to introduce the new report. If the State party asked to do so, as Chile had done, the Committee would be pleased to receive the delegation.

37. Mr. DIPANDA MOUELLE said that, if the State party asked to be present, it went without saying that its delegation would be welcome to participate in the Committee's discussions. However, if the State party did not ask to participate and if the additional report was complex enough to call for explanation, it would be better if a State party delegation was present to reply to the questions put by the members of the Committee before they reached their conclusions.

38. The CHAIRMAN agreed with Mr. Dipanda Mouelle.

39. Mr. HOUSHMAND (Representative of the Secretary-General) said that the Committee could take advantage of the fact that it held two sessions every year, to take note of the additional reports which had been sent to it and then to decide, in the light of the information which they contained, either to invite the State party to send a delegation to the following session or merely to take note of the report and discuss it later, during the consideration of the State party's next periodic report.

40. Mr. BURNS said he was in general agreement with the proposals which had been made. However, there seemed to be a slight difference of meaning between a "request" to a State to submit additional information and a mere "invitation" to it to send a delegation to present that additional information.

41. The CHAIRMAN said that, in his opinion, an additional report should be treated in the same way as an initial report. After all, if the Committee asked the State party for an additional report, it was because the initial report had left something to be desired. The Committee could decide whether the presence of the State party delegation would be useful when it took the decision to ask for an additional report, in the light of the shortcomings of the initial report. If a State refused to send a delegation, the Committee could, clearly, not force it to do so, but the established formula was definitely one of an invitation. It was also essential to distinguish between additional information and an additional report. Additional information should not give rise to any discussion or require the presence of a State party

delegation. In the case of an additional report, on the other hand, the Committee could invite the State party to send a delegation to introduce the report and answer the Committee's questions. The Committee still had to decide about the treatment to be given to the additional reports which had already been received.

42. Mr. BRUNI (Secretary of the Committee) said that the additional reports and information already received had been issued as Committee documents and were available to members. The documents in question were the additional report of Mexico (CAT/C/5/Add.22) and additional information provided by Egypt (CAT/C/5/Add.23), which was substantive information replying to each of the questions asked by the Committee in turn. Furthermore, Colombia had provided statistics (CAT/C/7/Add.10) in reply to one of the Committee's questions. Ecuador had submitted an additional report (CAT/C/7/Add.11), but it might wish to add a number of further clarifications.

43. Mr. SORENSEN inquired about the distinction in English between "additional" reports and "supplementary" reports. Were they not, in fact, the same thing?

44. The CHAIRMAN confirmed that the two were the same. In French, the expression "rapport complémentaire" was used, and the Secretariat would ensure that a standard expression was used in English in future.

45. Mr. SORENSEN regretted that Denmark had not sent the additional information which had been requested. He was not sure of the reasons for that situation but felt fairly confident in saying that his country might be intending to supply the information in a forthcoming periodic report. If the Committee wished to avoid receiving information in the period between two reports, it could ask the State party concerned to transmit it in its next periodic report.

46. The CHAIRMAN, returning to the distinction he had made between additional information and an additional report, said that in his estimation Colombia, Egypt and Mexico had submitted additional information. Ecuador had submitted an additional report, which the Committee should examine as if it was an initial report and which the State party should be invited to introduce. A country rapporteur and an alternate country rapporteur had already been appointed for that report.

47. The Committee still had to consider the guidelines it had already adopted for the preparation of initial reports and decide whether they could appropriately be amended or supplemented.

The meeting rose at 11.45 a.m.